

ORDINANCE No. 118121

COUNCIL BILL No. 111221

AN ORDINANCE relating to the personnel system, amending Seattle Municipal Code Section 4.04.220 to clarify employee "bumping" and reinstatement rights where layoff is based upon budget titles; to repeal provisions for layoff from grant funded positions and separate orders of layoff for part-time and full-time employees

OK

Lane Department

The City of Seattle--Legislative Department

INDEXED

REPORT OF COMMITTEE

Honorable President:

Your Committee on _____

to which was referred the within Council Bill No. _____ report that we have considered the same and respectfully recommend that it

COMPTROLLER FILE No. _____	
Introduced: <u>APR 29 1986</u>	By: <u>WEEKS</u>
Referred: <u>APR 29 1986</u>	To: <u>Personnel & Labor Policy Committee</u>
Referred:	To:
Referred:	To:
Reported: <u>MAY - 6 1986</u>	Second Reading: <u>MAY - 6 1986</u>
Third Reading: <u>MAY - 6 1986</u>	Signed: <u>MAY - 6 1986</u>
Presented to Mayor: <u>MAY - 7 1986</u>	Approved: <u>MAY 11 1986</u>
Returned to City Clerk: <u>MAY 14 1986</u>	Published: <u>Full</u>
Vetted by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

118121

Passed 3-0

Full Council vote 5-0

Tom Thiele

Committee Chair

ORDINANCE 118121

1 AN ORDINANCE relating to the personnel system, amending Seattle Municipal Code Section
2 4.04.220 to clarify employee "bumping" and reinstatement rights where layoff is based upon
3 budget titles; to repeal provisions for layoff from grant funded positions and separate orders
of layoff for part-time and full-time employee; and,

4 WHEREAS, the Personnel Ordinance specifies the normal order of layoff of employees from
5 positions with different budget and class titles or with budget titles only, but does not specify
employee "bumping" and reinstatement rights following such layoff; and,

6 WHEREAS, the City no longer supports a substantial workforce funded by categorical grant
7 sources; and

8 WHEREAS, the distinction between part-time and full-time employees is unnecessary and not
9 consistent between represented and nonrepresented employees, and therefore difficult to
administer when both represented and nonrepresented employees in the same job class occur
within the same department; Now, Therefore,

10 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

11 Section 1. Seattle Municipal Code Section 4.04.220, Ordinance 107790 (as last
12 amended by Ordinance 117360 10, 1994), is further amended as follows:

13 **4.04.220 Layoff**

14
15 **A. Order of Layoff.** Within an employing unit, the order for layoff in a given
16 class shall be as follows:

- 17 1. Probationary employees
- 18 2. Regular employees

19 Provided, that temporary workers and interim employees shall be separated prior to the layoff
20 of any probationary employee in the same employing unit and class.

21 Among regular employees, order of layoff shall be in order of seniority until a
22 performance evaluation system as contemplated by this chapter is in effect. Thereafter, the
23 regular employee having the lowest performance evaluation in the class shall be laid off first,
24 but among employees whose performance is substantially the same, layoff shall be in the order
25 of seniority.

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1 In the event one (1) or more positions having different budget and class titles or having
2 budget titles only and no class titles are scheduled to be abrogated for any reason and such
3 abrogation will result in a layoff, the Director shall establish an order of layoff for regular
4 employees that reflects their relative seniority in positions with the same budget title as such
5 positions affected by the layoff.

6 ~~((Separate orders of layoff shall be prepared for employees holding full-time and part-~~
7 ~~time positions in the event both types of positions occur in the class affected by a layoff.))~~
8

9 **B. Exceptions to Normal Order of Layoff.**

10 1. Upon a showing by the appointing authority that the operating needs of
11 an employing unit require such action, the Director may authorize an exception to the normal
12 order of layoff and the retention in active employment of any employee who has some special
13 experience, training or skill which is exceptional to the knowledges, skills and abilities
14 expected of the population of employees for the positions affected by the layoff. Such
15 exceptions to the normal order of layoff may be based upon documented recruiting and/or
16 hiring specifications, current job descriptions or similar documentation acceptable to the
17 Director.

18 2. The Director shall modify the normal order of layoff in the smallest
19 respect sufficient to prevent a negative disparate impact upon women, the disabled, or
20 minorities when these conditions are present:

21 a. Five (5) or more employees in an Equal Employment Opportunity job
22 category are to be laid off at one time in an employing unit;

23 b. The Director determines that women, the disabled, or minorities are
24 substantially under represented in the EEO category affected by the layoff, or that any such
25 protected group would become substantially under represented in the EEO category as a result
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1 of a layoff in the normal order; and,

2 c. A layoff in the normal order should have a negative disparate impact on
3 any such protected group; provided, that no such modification shall affect a regular employee
4 unless all probationary employees in the affected class or assignment level have been laid off.

5 d. For purposes of this permitted modification of the normal order of layoff,
6 an impact upon minorities shall be evaluated, and corrective action shall be taken, for
7 minorities as a single group that shall not be divided by ethnicity or other subclassifications.

8
9 **C. Employee Options For Transfers to Avoid Layoff (Bumping).**

10 Insofar as the option is available, as determined by the Director, any regular employee
11 subject to being laid off may displace within the same employing unit the employee who has
12 the least seniority in the displacing employee's class, or if the order of layoff reflects seniority
13 within a budget title pursuant to SMC 4.04.220A above, in the displacing employee's budget
14 title.

15 The least-senior regular employee who is laid off or is displaced pursuant to the
16 immediately preceding paragraph may displace the employee having the least seniority in the
17 next lower class in a class series, or next lower budget title when (1) the displacing employee
18 has had an appointment to such lower class or budget title, and (2) the employee to be
19 sequentially displaced has less seniority than the displacing employee.

20 Notwithstanding any other provision of this chapter,

21 ~~((1. No regular employee in a grant-funded position, in order to avoid a~~
22 ~~layoff, shall displace an employee in a position supported by other funds; and vice versa.~~

23 ~~2. No employee holding a part-time position, in order to avoid a layoff, shall~~
24 ~~displace a less-senior employee holding a full-time position unless the opportunity to displace~~
25 ~~an less-senior employee holding a part-time position is not available; and no employee holding~~

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1 ~~a full-time position, in order to avoid a layoff, shall displace a less senior employee holding~~
2 ~~a part-time position unless the opportunity to displace a less senior employee holding a full-~~
3 ~~time position is not available.~~

4 3.) In all cases, to be eligible to displace another employee in order to avoid a
5 layoff, the displacing employee must possess the skills required to perform the duties of the
6 position held by the employee who would be displaced.

7
8 **D. Reinstatement.**

9 1. The names of all employees laid off from active employment shall be
10 placed on a reinstatement ~~((register))~~list. Such ~~((register, list~~ shall be for the class or budget
11 ~~title~~ from which they have been laid off. The entire reinstatement ~~((register))~~list shall be sent
12 to any appointing authority for use in filling a vacancy in a position of that class or budget
13 ~~title~~. An appointing authority may refuse to make an appointment from the reinstatement
14 ~~((register))~~list only upon stating, a reason therefor to the Director.

15 2. The Director may implement programs to refer laid-off employees to
16 vacant City positions in any employing unit; provided, that each referred employee shall
17 possess skills commensurate with the duties of the position to be filled, as determined by the
18 Director, and provided, further, that no such referral shall result in a promotion for the
19 affected employee unless the employee has been ~~((certified from an appropriate~~
20 ~~register))~~referred as a result of an appropriate qualifications audit. An appointing authority
21 may refuse to hire a person so referred only upon stating, in writing, a reason therefor to the
22 Director.

23 **E. Notice of Layoff.**

24 Where a regular employee is separated by reason of layoff, when possible, thirty
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(30) days' prior written notice shall be given the affected employee, and at least fifteen (15) days' prior written notice shall be given unless:


1. Delaying the layoff would cause the employing unit to exceed its revenue for personal services for the affected work or program; or

2. The layoff is one of a number of layoffs and delaying the layoff would cause serious financial detriment to the City; or


3. The layoff is caused by fire, storm damage, earthquake, destruction of property, strike, or any other such event that could not reasonably have been foreseen, or by peremptory state or federal legislation.

Section 2. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

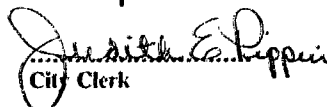
Passed by the City Council the 6 day of May, 1996, and signed by me in open session in authentication of its passage this 6 day of May, 1996


President of the City Council

Approved by me this 13 day of May, 1996


Mayor

Filed by me this 14 day of May, 1996


City Clerk

(Seal)

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Norman B. Rice, Mayor Sarah Welch, Personnel Director



SMC 4.04.220A, Order of Layoff, provides for the Personnel Director to prepare orders of layoff of regular employees by budget title in those situations where one (1) or more positions having different budget and class titles, or having budget titles only and no class titles, are affected by layoff. Although this provision for determining the order of layoff has been in the SMC since 1982, and is frequently applied in layoff situations, the SMC has not clearly described the bumping rights of employees affected by such orders of layoff. This lack of clarity in the SMC results in the expenditure of staff time to determine employee rights, and has resulted in at least one Civil Service Commission determination that was not consistent with the City's interpretation and expectation of how the ordinance provisions should be applied. In order to correct this, we are recommending that the SMC be revised

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Tom Weeks, Chair
Personnel & Labor Policy Committee
April 3, 1996

in Section - 220C to describe the bumping rights of employees laid off from an order of layoff prepared by budget title. Our recommendation language parallels language already in the SMC pertaining to the bumping rights of employees laid off from an order of layoff prepared by classification title.

In light of anticipated layoffs at the end of 1996, it can be expected that orders of layoff based upon budget title will occur with greater frequency. This revision will improve the efficiency of the layoff process by reducing errors and confusion about employee bumping rights, and enhancing management's workforce planning efforts. It is especially important that this clarification be made at this time so that department directors and employees have a clear understanding of the possible effects of an order of layoff based upon budget titles, and can plan accordingly.

Also included in the proposed SMC amendment is our recommendation to repeal provision for layoff from grant-funded positions, and for separate orders of layoff for part-time and full-time employees.

Layoff from Grant-funded Positions

This provision primarily affects positions in the Department of Housing and Human Services (DHHS), although there are also a few grant-funded positions in the Police Department. The provision is not included in union contracts, and, therefore cannot be applied to represented employees. However, the provision has been authorized in SMC 4.04.220 (C.1) since 1979 and has been included in the Personnel Rules since 1980.

This provision allows for layoff from grant-funded positions to be based upon the reduction or elimination of a grant source. The provision restricts employee bumping to positions within the affected grant. An employee laid off from a grant-funded position may not bump an employee in a non-grant-funded position, or vice versa.

We are recommending the rule for layoff from grant-funded positions be repealed since most positions funded by grant resources are funded through a mixture of revenue sources, and the City no longer supports a substantial workforce employed by single categorical grants.

Layoff from Part-time/Full-time Positions

This provision is not included in union contracts, but does appear in SMC 4.04.220 (C.2). The provision requires two separate orders of layoff for nonrepresented employees, but only

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one order of layoff is required for represented employees. A full-time, nonrepresented employee must first bump another full-time employee before he/she may bump a part-time employee, and a part-time employee must bump part-time before bumping full-time. A represented full-time or part-time employee may bump either a full-time or part-time employee, whichever is least senior. For both nonrepresented and represented employees, the bumping employee must be willing to accept the full-time or part-time position he/she is bumping into, as the case may be.

The distinction for nonrepresented part-time employees is an unnecessary distinction and difficult to administer when both nonrepresented and represented employees in the same class and department are affected by layoff. Therefore, the provision should be repealed so that represented and nonrepresented employees are treated the same.

We hope to have these proposed ordinance amendments adopted and effective for the anticipated layoff situations that may occur as a result of the 1997/1998 budget process. If you have any questions regarding the proposal, please call me, or you may contact Larry Yok, Management and Policy Director at 684-4197.

SW:rdt

Attachment

G:\GROUPS\POLICY\HELEN LYON\BXX CVR

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TIME AND DATE STAMP

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THE ATTACHED DOCUMENT IS SPONSORED FOR FILING WITH THE CITY COUNCIL BY THE MEMBER(S) OF THE CITY COUNCIL WHOSE SIGNATURE(S) ARE SHOWN BELOW:

Tom Mark _____

FOR CITY COUNCIL PRESIDENT USE ONLY

COMMITTEE(S) REFERRED TO: _____

PRESIDENT'S SIGNATURE

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Handwritten: 4/9/96
City of Seattle

Executive Department—Office of Management and Planning

Thomas M. Tierney, Director
Norman B. Rice, Mayor



April 9, 1996

**The Honorable Mark Sidran
City Attorney
City of Seattle**

Dear Mr. Sidran:

The Mayor is proposing to the City Council that the enclosed legislation be adopted.

**REQUESTING
DEPARTMENT:**

Personnel Department

SUBJECT:

AN ORDINANCE relating to the personnel system, amending Seattle Municipal Code Section 4.04.220 to clarify employee "bumping" and reinstatement rights where layoff is based upon budget titles; to repeal provisions for layoff from grant funded positions and separate orders of layoff for part-time and full-time employee; and,

Pursuant to the City Council's S.O.P. 109-014, the Executive Department is forwarding this request for legislation to your office for review and drafting.

After reviewing this request and any necessary redrafting of the enclosed legislation, return the legislation to OMP. Any specific questions regarding the legislation can be directed to

Sincerely,

Norman B. Rice
Mayor

by

Handwritten signature of Tom Tierney
TOM TIERNEY
Director

cc: Admin/legis/News/jur/joint

Enclosure

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68216
City of Seattle, City Clerk

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No.

Society Public for the State of Washington,
residing in Seattle

Affidavit of Publication